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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|---------------------------------------|----------------------|-------------------------|------------------|
| 09/904,975 | 07/12/2001 | Dan W.C. Delmer | DELME-P2739 | 3783 |
| 21259 | 7590 06/07/2006 | | EXAMINER | |
| J MARK HOLLAND & ASSOCIATES | | | DUNWOODY, AARON M | |
| 3 CIVIC PLAZA SUITE 210 NEWPORT BEACH, CA 92660 | | | ART UNIT | PAPER NUMBER |
| , | · · · · · · · · · · · · · · · · · · · | | 3679 | |
| | | | DATE MAILED: 06/07/2000 | 5 |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | Application No. | Applicant(s) | | | |
|--|--|--|--------------------------------|--|--|--|
| Office Action Summary | | 09/904,975 | DELMER, DAN W.C. | | | |
| | | Examiner | Art Unit | | | |
| | | Aaron M. Dunwoody | 3679 | | | |
| | The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply | | | | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). | | | | | | |
| Status | | | | | | |
| 1) 🛛 | 1) Responsive to communication(s) filed on 26 April 2006. | | | | | |
| | This action is FINAL . 2b) This action is non-final. | | | | | |
| | Since this application is in condition for allowance except for formal matters, prosecution as to the merits is | | | | | |
| | closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. | | | | | |
| Disposition of Claims | | | | | | |
| 4)⊠ Claim(s) <u>2,3 and 5-18</u> is/are pending in the application. | | | | | | |
| | 4a) Of the above claim(s) <u>16-18</u> is/are withdrawn from consideration. | | | | | |
| | 5) Claim(s) is/are allowed. | | | | | |
| | 6) Claim(s) is/are rejected. | | | | | |
| 7) 🗌 (| Claim(s) is/are objected to. | | | | | |
| 8)🛛 (| Claim(s) 2.3 and 5-15 are subject to restriction | and/or election requirement. | | | | |
| Application | on Papers | | | | | |
| 9)[] T | he specification is objected to by the Examine | r | | | | |
| 10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner. | | | | | | |
| | Applicant may not request that any objection to the | | | | | |
| Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). | | | | | | |
| 11)[] T | 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. | | | | | |
| Priority u | nder 35 U.S.C. § 119 | | | | | |
| 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). | | | | | | |
| a) All b) Some * c) None of: | | | | | | |
| 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No. | | | | | | |
| 2. Certified copies of the priority documents have been received in Application No. 3. Copies of the certified copies of the priority documents have been received in this National Stage | | | | | | |
| application from the International Bureau (PCT Rule 17.2(a)). | | | | | | |
| * See the attached detailed Office action for a list of the certified copies not received. | | | | | | |
| and and and actually a chief action for a list of the certified copies not received. | | | | | | |
| | | | | | | |
| Attachment(s) | | | | | | |
| | of References Cited (PTO-892) | 4) Interview Summary | | | | |
| | of Draftsperson's Patent Drawing Review (PTO-948) ation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | Paper No(s)/Mail Da 5) Notice of Informal Pa | te atent Application (PTO-152) | | | |
| Paper | No(s)/Mail Date | 6) 🔲 Other: | | | | |

DETAILED ACTION

Further review of the amended claims necessitated the following restriction. It should be noted that claims 16-18 are previously withdrawn from consideration and this restriction.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- Claims 1-3 and 5-7, drawn to an apparatus, classified in class 285, subclass 39.
- II. Claims 8-15, drawn to a stretching tool, classified in class 81, subclass 21.

 The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination Group II has separate utility such as stretching tool for non-corrugated pipes. See MPEP § 806.05(d).

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

A telephone call attempt was made to Mark A Pellegrini on 6/2/2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

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Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Art Unit: 3679

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aaron M Dunwoody Primary Examiner Art Unit 3679

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